

# **EXHIBIT 35**

US District Court - Delaware  
Chapter 11 - W.R. Grace

FINAL - November 1, 2007  
Dr. Mark Peterson

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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CHAPTER 11

IN RE:  
W.R. GRACE & CO., ET AL.,

DEBTORS.

CASE NO. 01-1139 (JFK)  
JOINTLY ADMINISTERED

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VIDEOTAPED DEPOSITION  
Dr. Mark Peterson  
November 1, 2007  
Westlake Village, California  
Lead: David M. Bernick, Esquire  
Firm: Kirkland & Ellis

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1       **significant period of years, say more than five years?**

2           A. Most of the variation that occurs in asbestos  
3       claiming settlements is because of behavioral effects,  
4       not biological effects. Since it accounts for most of  
5       the change, it's -- it's going to also have more error  
6       in its prediction.

7           **Q. And that error in prediction becomes more  
8       pronounced the greater the number of years you go out in  
9       your prediction, correct?**

10          A. Clearly for -- the confidence in any forecast,  
11       including these forecasts, is greater for years that are  
12       more contemporaneous than those that are in the future,  
13       and it's greater for years that have already occurred,  
14       where we actually can sit and look at the -- what's  
15       happened with other companies, what the litigation  
16       environment is.

17          **Q. So are you --**

18          A. In this case, we have the ability to forecast  
19       for the future, in quotes, for Grace, that began in 2001  
20       and extend to today. We have more confidence in that  
21       than we do for the forecast for the next five years, and  
22       more than we do for the following five years, and so on.

23          **Q. Okay. Is there any quantitative or statistical  
24       analysis that you've done to put -- to specify your  
25       level of confidence in forecasting Grace claiming**

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1           **Q. One of the things would be the jurisdiction,**  
2           **right?**

3           A. Yes, it can have an important effect.

4           **Q. The lawyer?**

5           A. Yes.

6           **Q. The merits of the case?**

7           A. Can't quantify that. In negotiations, of  
8           course, the parties look at that, but merits is not a  
9           variable that can be subject to economic analysis or the  
10           kind of analysis I do.

11           **Q. Okay. Now, one of the things that also affects**  
12           **the value of the case are the personal -- is the**  
13           **personal side of the case: Is the plaintiff young or**  
14           **old? Family, not family? What their background is? A**  
15           **hundred different things that bear upon whether the jury**  
16           **would find their case to be a compelling case.**

17           **Would you agree with that?**

18           A. No, I wouldn't agree with the examples you've  
19           given. In most cases, the matter of the age and the  
20           family consideration doesn't affect the settlement value  
21           of the case. It would --

22           **Q. Go ahead.**

23           A. It would affect the case if, perhaps some of  
24           them would, depending upon the disease and other  
25           matters, if you're going to trial. But if it's a case

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1 that settles as most cases are settled, well before  
2 trial, those, I don't think those matters are very  
3 important.

4 **Q. You know the kind of personal factors that I'm  
5 talking about?**

6 A. I know what you mentioned and I disagree that  
7 they're important.

8 **Q. Okay, fine.**

9 **Do you actually -- have you actually done --  
10 gathered any data to determine the effect of those  
11 personal factors on settlement values?**

12 A. Yes.

13 **Q. Okay. What data do you have?**

14 A. We've looked at that again and again: Age.  
15 Family matter, I haven't. Age. And age is not an  
16 important -- despite the kind of folk wisdom about it,  
17 age is generally not an important predictor of a  
18 settlement value. It appears to be important in -- for  
19 mesothelioma claims, or claims that are going to trial,  
20 because it adds trial value, but for -- and that's kind  
21 of -- that adds to the average, it adds to the higher  
22 verdict. I believe, for the bulk of cases, the means  
23 for every disease, age has little effect upon the value  
24 of a claim.

25 **Q. Okay. Let's talk about an individual case that,**